

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 In re:

4 PLATINUM-BEECHWOOD LITIGATION 18 Civ. 06658 (JSR)

5 -----x
6 MARTIN TROTT and CHRISTOPHER 18 Civ. 10936 (JSR)
7 SMITH, as Joint Official
8 Liquidators and Foreign
9 Representatives of PLATINUM
10 PARTNERS VALUE ARBITRAGE FUND LP
(in Official Liquidation) and
11 PLATINUM PARTNERS VALUE ARBITRAGE
12 FUND LP (in Official Liquidation)

13 Plaintiffs,

14 v.

15 PLATINUM MANAGEMENT (NY) LLC,
16 et al.,

17 Defendants.

18 -----x Trial

19 New York, N.Y.

20 December 20, 2022
21 9:30 a.m.

22 Before:

23 HON. JED S. RAKOFF,

24 District Judge
25 and a Jury

APPEARANCES

HOLLAND & KNIGHT, LLP
Attorneys for Plaintiffs
BY: WARREN E. GLUCK
ELLIOT A. MAGRUDER

KATTEN MUCHIN ROSENMAN, LLP
Attorneys for Defendant Bodner
BY: ELIOT LAUER
GABRIEL HERTZBERG
JULIA B. MOSSE

CURTIS, MALLET-PREVOST, COLT & MOSLE, LLP
Attorneys for Defendant Bodner
BY: NATHANIEL C. AMENT-STONE
ALLESANDRA TYLER

1 (In open court; jury not present)

2 THE COURT: My chambers expresses its great thanks to
3 counsel for both sides for supplying us with doughnuts this
4 morning, and that enabled us to survive until the jury reached
5 a verdict, which they now have. So we will bring them in as
6 soon as we get the verdict form to take the reading of the
7 verdict.

8 (Jury present)

9 THE COURT: Madam foreperson, I understand the jury
10 has reached a verdict.

11 JUROR: Yes.

12 THE COURT: Before I open the envelope, because I
13 never comment on a verdict after it's been read out because
14 deciding a verdict is your job, not mine, I do want to one last
15 time compliment this jury. I was not exaggerating when I told
16 you that you were an exceptional jury, and I have seen, in the
17 27 years that I've been a judge, over 300 juries. So this is
18 no light praise. And you were so attentive, you were so
19 careful, and your service is much appreciated.

20 I thought maybe, I'm starting another trial on January
21 3rd -- well, maybe not. Okay.

22 Let me open the verdict form.

23 The verdict form is in proper form. I'll give it to
24 my courtroom deputy to give to the foreperson.

25 THE DEPUTY CLERK: Madam foreperson, please rise.

1 THE COURT: Madam foreperson, on plaintiffs' claim for
2 breach of fiduciary duty, the jury finds the defendant, David
3 Bodner, liable or not liable?

4 JUROR: Liable.

5 THE COURT: Having found the defendant liable for
6 fiduciary breach, do you, the jury, find that the March 20,
7 2016 general release nonetheless bars liability or does not bar
8 liability?

9 JUROR: Does not bar liability.

10 THE COURT: Having found the defendant liable for
11 fiduciary breach and having found this liability is not barred
12 by the release, you, the jury, award plaintiffs the following
13 compensatory damages from defendant Bodner.

14 JUROR: \$8,150,601.80.

15 THE COURT: And finally, please indicate how much of
16 this amount, if any, is for incentive fees based on the 2012
17 NAV.

18 JUROR: Zero.

19 THE COURT: Very good. Please give the verdict form
20 back to my courtroom deputy.

21 Juror No. 1, you heard the verdict read. Is that your
22 verdict?

23 JUROR: Yes, I agree.

24 THE COURT: Verdict for juror No. 2?

25 JUROR: Yes, I agree.

1 THE COURT: Juror No. 3?

2 JUROR: Yes, sir.

3 THE COURT: Juror No. 4?

4 JUROR: Yes.

5 THE COURT: We excused juror No. 5, so juror No. 6?

6 JUROR: I agree.

7 THE COURT: Juror No. 7?

8 JUROR: I agree.

9 THE COURT: Juror number 8?

10 JUROR: Yes, I agree.

11 THE COURT: Juror No. 9?

12 JUROR: Agreed.

13 THE COURT: Jury polled. Jury unanimous.

14 Ladies and gentlemen, thank you again for your
15 wonderful service. You'll be glad to know that you are now
16 excused for several years from federal jury service. I don't
17 know how you'll survive, but you'll do your best. So thanks
18 again and you are now dismissed.

19 (Jury excused)

20 THE COURT: Please be seated.

21 So, because of the answer to question No. 4, that
22 issue is no longer a live one.

23 We do have to determine any setoffs and if there are
24 any posttrial motions, so I want to set a schedule for all
25 that.

1 I guess on setoffs, the defense should take the lead.
2 So how long do you want for putting your papers in?

3 MR. LAUER: Can we do it January 5th?

4 THE COURT: January 5th is fine.

5 How long does plaintiffs' counsel want to respond?

6 MR. GLUCK: Two weeks.

7 THE COURT: Two weeks, January 19th.

8 And how long for reply papers?

9 MR. LAUER: One week, your Honor.

10 THE COURT: January 26th. I usually don't take oral
11 argument on that, but if I need it, I'll reach out to you.

12 Now, in terms of any post-trial motions for a new
13 trial or anything like that, you may or may not want to make
14 such a motion, but if there is any such motion, I think it
15 needs to be filed by January 12th.

16 Any problem with that?

17 MR. LAUER: The only question is if we're able to
18 reach agreement on the setoff or --

19 THE COURT: You'd rather have the setoff decided
20 first?

21 MR. LAUER: I think so.

22 THE COURT: That makes sense.

23 So, assuming no oral argument, I will get you a
24 decision on setoff by February 8th. So any motions for a new
25 trial -- well, let me know by February 11th, by joint telephone

1 call, whether either side is going to make a motion for a new
2 trial, because otherwise I can issue final judgment. But
3 assuming you tell me on the 11th that you do want to file,
4 we'll work out a schedule on that call for any new trial
5 motion.

6 Anything else we need to take up?

7 MR. LAUER: I have great expectations that we should
8 be able to reach agreement on the setoff, but if not, there's a
9 possibility we might need some very minor discovery.

10 THE COURT: Call me up jointly if necessary. I
11 thought myself that this was a classic compromise, that both
12 sides should be equally pleased or displeased, but I think
13 justice was done.

14 So, very good. You're now dismissed. Thank you very
15 much.

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